

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawai'i

April 24, 2009

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Subject: Request to Approve an Amendment with the Department of the Navy
for the Renewal of a License for Nonfederal Use of Real Property and for Acceptance of
an Environmental Condition of Property at 'Aiea Bay State Recreation Area, 'Aiea,
O'ahu

Historical Use:

'Aiea Bay also known as Rainbow Bay, is located along the shoreline at the diamond head end of East Loch in Pearl Harbor, approximately eight miles from downtown Honolulu. During World War II, 'Aiea Bay was intensively developed by the U.S. Navy with support facilities such as fueling piers, barge moorings, a fire-fighting school and small boat landings. A field hospital was constructed on McGrew Point. Following the war, McGrew Point was developed for family housing.

In 1973, the marina at Rainbow Bay was built as a replacement facility for a former Navy recreation area that was displaced when the State constructed the reef runway. As tourism grew, boat tours of Pearl Harbor, particularly to the U.S.S. Arizona Memorial increased in popularity. Greater civilian use of the area combined with rapid urbanization of lands around Pearl Harbor mounted pressure for public recreational uses in the area. Discussions ensued between the State, the City and County of Honolulu, and the Navy about potential multi-purpose uses of 'Aiea Bay and in 1974, the Department published the Rainbow Bay Conceptual Plan prepared by McAuliffe, Oka and Associates, Inc. The project area encompassed the entire bay perimeter from McGrew Point to the Rainbow Bay Marina. Envisioned as a passive recreational park, the plan proposed a nature walk, picnic areas, parking and a continuous bikeway around its perimeter,

The State's acquisition of the area began in 1980, with a 2.6 acres private holding obtained through eminent domain proceedings. In 1981, a Memorandum of Understanding (MOU) was executed between the State and the U.S. Navy for 'Aiea Bay State Recreation Area (SRA) involving the lease of approximately 3 acres of federal lands with public access to the park from an existing roadway off of Kamehameha Highway. The MOU included passive activities such as strolling, picnicking, minor boating and shoreside fishing with park boating activities to be regulated by the State. The improved park area is approximately 9 acres, including the 3 acres leased from the Navy and 6 acres that were set aside to the division in 1983. A bicycle path developed by the City and County of Honolulu traverses the site along its course from Lehua Avenue in Pearl City to Richardson Recreation Area. A comfort station was built on the northwest portion of the site.

Current Use:

In 1993, a license agreement was executed with the Department of the Navy to use the 3 acres under Navy control for a public park. The agreement period was from May 1, 1993 to April 30, 1998. Since that time, two amendments were approved extending License No. N6274293RP00066 for two five-year periods until April 30, 2008. A third amendment No. 3 (attached), which is the subject of this submittal will extend the agreement to April 30, 2013 and incorporate an environmental study of the condition of 'Aiea Bay SRA as Special Provision 9 of the license agreement. The environmental condition of property (ECP) sets forth the existing environmental conditions of the licensed premises as represented by a survey conducted by the Navy and forms the basis for a determination that the premises are suitable for the purpose of the license and that the licensee will comply with all restrictions in the license agreement. We note that amendment no. 3 and the ECP (attached) were reviewed and found satisfactory by the Deputy Attorney General.

RECOMMENDATION:

That the Board:

Approve Amendment No. 3 of License No. N6274293RP00066 extending the use of the Navy's real property at 'Aiea Bay and accept Special Provision 9 Environmental Condition of Property for inclusion in the license.

Respectfully submitted,



Daniel S. Quinn, Administrator

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

4404
5299

LINDA LINGLE
GOVERNOR



RECEIVED

MARK J. BENNETT
ATTORNEY GENERAL

LISA M. GINOZA
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII 09 MAR 12 AIO 40
DEPARTMENT OF THE ATTORNEY GENERAL
LAND TRANSPORTATION DIVISION
ROOM 300, KEKUANAO'A BUILDING
465 South King Street
HONOLULU, HAWAII 96813
(808) 587-2992
DEPT. OF LAND
NATURAL RESOURCES
STATE OF HAWAII

WRITER'S DIRECT LINE:
(808) 587-2985
WRITER'S E MAIL:
Rowena.A.Somerville@hawaii.gov

MEMORANDUM

DATE : March 11, 2009

TO : Laura H. Thielen
Chairperson

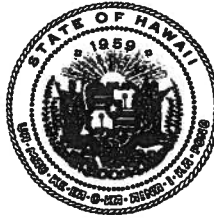
FROM : Rowena A. Somerville *RS*
Deputy Attorney General

RE : License Agreement with the U.S. Navy for the Use of Lands at 'Aiea Bay

Laura,

I have reviewed the attached documents, and they are satisfactory. If you have any questions, please call me at x72985. Thank you.

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

February 6, 2009

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LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT


RUSSELL TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MEMORANDUM

To: Sonia Faust, Supervising Attorney General
Land/Transportation Division

From: Laura H. Thielen, Chairperson
Board of Land and Natural Resources 

Subject: License Agreement with the U.S. Navy for the Use of Lands at 'Aiea Bay

In 1993, a license agreement was executed with the Department of the Navy to use the 3 acres under Navy control for a public park. The agreement period was from May 1, 1993 to April 30, 1998. Since that time, two amendments were approved extending License No. N6274293RP00066 for two five-year periods until April 30, 2008. A third amendment No. 3 (attached), which is the subject of this submittal will extend the agreement to April 30, 2013 and incorporate an environmental study of the condition of 'Aiea Bay SRA as Special Provision 9 of the license agreement. The environmental condition of property (ECP) sets forth the existing environmental conditions of the licensed premises as represented by a survey conducted by the Navy and forms the basis for a determination that the premises are suitable for the purpose of the license and that the licensee will comply with all restrictions in the license agreement.

On January 9, 2009, the Land Board approved amendment no. 3 and accepted the ECP. We would like to request your review of the amendment and the ECP, both of which are attached.



AMENDMENT TO LICENSE FOR NONFEDERAL USE OF REAL PROPERTY	AMENDMENT NO. 3	DATE 30 April 2008
	TO LICENSE NO. N6274293RP00066	

THIS AMENDMENT, made and entered into this day by and between

State of Hawaii, represented by its Board of Land and Natural Resources

whose address is

P.O. Box 621
Honolulu, HI 96809

herein called the Licensee, and the UNITED STATES OF AMERICA, herein called the Licensor;

WHEREAS, the parties hereto, desire to amend the above described License,

NOW, THEREFORE, these parties, for the consideration hereinafter mentioned, covenant and agree that the said License is amended as follows, effective May 1, 2008, as follows:

- a. Item 2, "Dates Covered (Inclusively)" is amended to read "From 1 May 1993 to 30 April 2013".
- b. The following language is added as Special Provision 9 of the License:

"9. ENVIRONMENTAL CONDITION OF PROPERTY. An Environmental Condition of Property (ECP) is attached to this License and made a part hereof as Exhibit B. The ECP sets forth the existing environmental conditions of the Licensed Premises as represented by a survey conducted by the Licensor and sets forth the basis for the Licensor's determination that the Licensed Premises are suitable for the purpose of the License. Licensee and each sublicensee are hereby made aware of the notifications contained in the ECP and shall comply with all restrictions set forth therein."

Except as herein amended all other terms and conditions of the License shall remain in force and effect.

IN WITNESS WHEREOF, this Amendment to said License is effective as of the date first written above.

EXECUTION OF AMENDMENT

FOR	BY		DATE
	NAME AND TITLE (Typed)	SIGNATURE	
DEPARTMENT OF THE NAVY			
LESSOR			

ORIGINAL

Final Environmental Condition of Property for Aiea Bay State Park License by McGrew Point Loop, Pearl Harbor Oahu, Hawaii

May 2008

**Department of the Navy
Commander
Naval Facilities Engineering Command, Pacific
258 Makalapa Drive, Suite 100
Pearl Harbor, HI 96860-3134**



EXHIBIT "B"

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- C FISH AND SHELLFISH CONSUMPTION ADVISORY SIGN
- D RECORD OF CATEGORICAL EXCLUSIONS

ENVIRONMENTAL CONDITION OF PROPERTY (ECP)

Page 1 of 8

Installation: Aiea Bay Park, COMNAVREG Hawaii

Parcel/Site Location and Description:

Various parcels of land under Navy control located between McGrew Point Loop and Aiea Stream consisting of approximately 3 acres as depicted in blue in Appendix A (the proposed licensed area). The proposed licensed area is located off of Kamehameha Highway, neighboring Pearl Harbor. The proposed licensed area is currently used by Hawaii State Parks as a public park. Currently, the park contains a paved parking lot, covered bathroom, covered pavilions, trees, open muddy/grassy areas which extend out to the shoreline (see Appendix B for site photographs).

Proposed Real Estate Action Description:

The proposed real estate action is to renew the license to the State of Hawaii for the continued use of various parcels of land (approximately 3 acres) to be used as part of the Aiea Bay State Park. The State has been using the proposed licensed area since 1 May 1993. The current term of the license expired on 30 April 2008 and the Navy plans to renew the license for another 5 years until 2013.

SITE SUMMARY INFORMATION

1. Information regarding site uses and any hazardous materials, contamination, or conditions.

All available and pertinent files, records, reports and aerial photographs were reviewed and, where necessary, a site inspection and/or personal interviews were conducted to document the environmental conditions of the property to support the proposed real estate action. A summary of the conditions, sources of information, and any required use restrictions are provided for each environmental condition.

The following documents were reviewed in support of this real estate outgrant:

- Site Summary Report, Richardson Geographic Study Area, Pearl Harbor Naval Complex, Oahu, Hawaii of December 2002
- Record of Categorical Exclusions signed on 31 Jan 2008

A site visit was conducted on December 20, 2007 by Helen Lam and Brian Yamada, NAVFAC Pacific environmental personnel.

A. Parcel/Site Uses:

Prior Uses: The proposed licensed area was previously used as a portion of the State of Hawaii public park at Aiea Bay since 1 May 1993.

Current Uses: The proposed licensed area is currently used as a portion of the State of Hawaii public park at Aiea Bay.

Future Uses: The proposed future use of the proposed licensed area will be consistent with the current use.

B. Contaminants: ☐ Yes ☒ No ☐ Unknown

If yes, identify contaminant and media:

Source of information: Review of the environmental documents listed above in Section 1 and site reconnaissance.

Restrictions or Land Use Controls: ☐ Yes ☒ No

If yes, please identify and explain in detail in Section 2 below.

ENVIRONMENTAL CONDITION OF PROPERTY (ECP)

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C. Hazardous Materials Use: ☐ Yes ☒ No ☐ Unknown
Hazardous Materials Storage: ☐ Yes ☒ No ☐ Unknown

Source of information: Review of the environmental documents listed above in Section 1 and site reconnaissance.

Restrictions or Land Use Controls: ☐ Yes ☒ No
If yes, please identify and explain in detail in Section 2 below.

D. Treatment, Storage, Disposal of Hazardous Waste: ☐ Yes ☒ No ☐ Unknown

Source of information: Review of the environmental documents listed above in Section 1 and site reconnaissance.

Restrictions or Land Use Controls: ☐ Yes ☒ No
If yes, please identify and explain in detail in Section 2 below.

E. Underground Storage Tanks: ☐ Yes ☒ No ☐ Unknown
UST No. _____ Gals. _____

Source of information: Review of the environmental documents listed above in Section 1.

Restrictions or Land Use Controls: ☐ Yes ☒ No
If yes, please identify and explain in detail in Section 2 below.

F. Above-Ground Storage Tanks: ☐ Yes ☒ No

Source of information: Review of the environmental documents listed above in Section 1 and site reconnaissance.

Restrictions or Land Use Controls: ☐ Yes ☒ No
If yes, please identify and explain in detail in Section 2 below.

G. Presence of Polychlorinated Biphenyls (PCBs): ☐ Yes ☒ No ☐ Unknown

Source of information: Review of the environmental documents listed above in Section 1 and site reconnaissance.

Restrictions or Land Use Controls: ☐ Yes ☒ No
If yes, please identify and explain in detail in Section 2 below.

H. Asbestos: ☐ Yes ☐ No ☒ Unknown
If yes: ☐ Friable ☐ Non-friable ☒ Unknown

No asbestos sampling has been conducted for this ECP. Existing structures in the proposed licensed area may contain asbestos containing building materials.

Source of information: Review of the environmental documents listed above in Section 1 and site reconnaissance.

Restrictions or Land Use Controls: ☒ Yes ☐ No
If yes, please identify and explain in detail in Section 2 below.

I. Lead Paint: ☐ Yes ☐ No ☒ Unknown

No lead based paint (LBP) survey has been conducted for this ECP. The interior and exterior of the existing structures on the proposed licensed area may contain lead based paint. All paints on the painted surface were in good condition on the date of the site reconnaissance on 20 December 2007.

Source of information: Review of the environmental documents listed above in Section 1 and site reconnaissance.

Restrictions or Land Use Controls: ☒ Yes ☐ No
If yes, please identify and explain in detail in Section 2 below.

ENVIRONMENTAL CONDITION OF PROPERTY (ECP)

Page 3 of 8

J. Radon: ☐ Yes ☒ No ☐ Unknown

Source of information: Review of the environmental documents listed above in Section 1.

Restrictions or Land Use Controls: ☐ Yes ☒ No

If yes, please identify and explain in detail in Section 2 below.

K. Radiological Materials: ☐ Yes ☒ No ☐ Unknown

Source of information: Review of the environmental documents listed above in Section 1.

Restrictions or Land Use Controls: ☐ Yes ☒ No

If yes, please identify and explain in detail in Section 2 below.

L. Solid/Bio-Hazardous Waste: ☐ Yes ☒ No ☐ Unknown

Source of information: Review of the environmental documents listed above in Section 1.

Restrictions or Land Use Controls: ☐ Yes ☒ No

If yes, please identify and explain in detail in Section 2 below.

M. Munitions and Explosives of Concern: ☐ Yes ☒ No ☐ Unknown

Source of information: Review of the environmental documents listed above in Section 1.

Restrictions or Land Use Controls: ☐ Yes ☒ No

If yes, please identify and explain in detail in Section 2 below.

N. Threatened or Endangered Species: ☐ Yes ☒ No ☐ Unknown

Source of information: Review of the environmental documents listed above in Section 1.

Restrictions or Land Use Controls: ☐ Yes ☒ No

If yes, please identify and explain in detail in Section 2 below.

O. Natural or Cultural Resources: ☐ Yes ☒ No ☐ Unknown

Source of information: Review of the environmental documents listed above in Section 1.

Restrictions or Land Use Controls: ☐ Yes ☒ No

If yes, please identify and explain in detail in Section 2 below.

P. Pesticides and/or Herbicides: ☒ Yes ☐ No ☐ Unknown

Various pesticides/herbicides have been legally applied on the proposed licensed area. The presence of the pesticide residues in the soil is the result of past applications of pesticides on site rather than the result of a spill or other type of release.

Source of information: Review of the environmental documents listed above in Section 1.

Restrictions or Land Use Controls: ☒ Yes ☐ No

If yes, please identify and explain in detail in Section 2 below.

Q. Underground Petroleum Pipelines: ☒ Yes ☐ No ☐ Unknown

There are two underground petroleum pipelines running along the Kamehameha Highway. The Air Force owned one of the pipelines and the other one belongs to Chevron.

Source of information: Review of the environmental documents listed above in Section 1 and information provided by Lea Wakabayashi of NAVFAC Hawaii.

Restrictions or Land Use Controls: ☒ Yes ☐ No

If yes, please identify and explain in detail in Section 2 below.

R. Use of Adjacent Property:

Current Use: The McGrew Point Naval Housing Area is located to the west of the proposed licensed area. The south and east portion of the proposed licensed area are bordered by the state owned portion of the Aiea Bay State Park.

Waters of Pearl Harbor

For security reasons, entry into waters of Pearl Harbor is prohibited.

Pearl Harbor is located southwest of Aiea Bay. The Government is currently studying the sediment in the harbor to assess potential contamination from various sources surrounding and within the harbor. The Hawaii Department of Health issued an advisory in 1998, cautioning against the consumption of fish and shellfish from Pearl Harbor and urban streams.

Past Use: Similar to current use.

Source of information: Review of the environmental documents listed above in Section 1.

Restrictions or Land Use Controls: ☒ Yes ☐ No

If yes, please identify and explain in detail in Section 2 below.

S. Has the site had any Notices of Violation? ☐ Yes ☒ No

If yes, please explain:

Source of information: Review of the environmental documents listed above in Section 1.

Restrictions or Land Use Controls: ☐ Yes ☒ No

If yes, please identify and explain in detail in Section 2 below.

T. Additional information or comments regarding questions shown above (attach sheet(s) if additional room is needed):**Underground Utilities**

There are substantial utility improvements in the strip of land that forms the northern portion of the proposed licensed area, which is commonly known as the Navy's Utility Corridor or the former Oahu Railway and Land Company (OR&L) right of way.

Also, located in the Navy's Utility Corridor is a portion of the Pearl Harbor Bike Path, constructed and operated by the City and County of Honolulu pursuant to an easement granted by the Licensor on Oct 7, 1974.

Source of information: Special Provisions to License No. N6274293RP00066.

Restrictions or Land Use Controls: ☒ Yes ☐ No

If yes, please identify and explain in detail in Section 2 below.

2a. Operational Environmental Compliance Provisions

The following operational environmental compliance provisions are required for inclusion in the Real Estate Agreement proposed for the proposed licensed area to ensure the protection of human health and the environment.

- The Licensee shall ensure its operations are in compliance with the various Federal, State, and local environmental laws and Navy environmental regulations and policies.
- The Licensee shall obtain prior approval from the Navy and other appropriate authorities (e.g. HECO or Board of Water Supply) before connecting to or using utility systems.
- The Licensee must immediately notify the Navy if any suspected area of contamination is encountered within any portion of the proposed licensed area.
- The Licensee shall ensure that petroleum products or hazardous substances are not discharged to the soil, surface waters, or sanitary sewer system.

- The Licensee shall be responsible for obtaining at its cost and expense any environmental permits or regulatory authorizations required for its operations.
- The Licensee shall, upon reasonable notice, allow Government personnel and/or their authorized representatives access to all portions of the proposed licensed area to undertake any and all activity the Government deems appropriate concerning environmental investigation and/or remediation.
- Prior to storing, treating, or disposing of any toxic or hazardous materials on the proposed licensed area, the Licensee shall obtain the Government's written authorization in compliance with 10 U.S.C. § 2692.
- The Licensee acknowledges that the proposed licensed area is a part of the Pearl Harbor Naval Complex, which has been placed on the National Priorities List (NPL) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. The Licensee acknowledges that the Navy has notified the Licensee of the investigation and cleanup effort that the Navy is engaged in at the Pearl Harbor Naval Complex. The Licensee acknowledges that the Navy has provided the Licensee with a copy of the Pearl Harbor Naval Complex Federal Facilities Agreement (FFA) entered into by the United States Environmental Protection Agency (EPA) Region 9, the State of Hawaii Department of Health (State DOH), and the Navy on 17 March 1994.
- In accordance with the requirements of the FFA, the Licensee agrees to the following:
 - a. The Navy, EPA and the State DOH shall have continuous rights of access to and over the proposed licensed area, in accordance with Section 25 of the FFA;
 - b. The Licensee will not impede any activities associated with the Remedial Investigation/Feasibility Study or any response action taken under the FFA; and
 - c. The Licensee will not alter the rights and obligations of the Navy, the State DOH or EPA under the FFA.

Underground Utilities and Underground Petroleum Pipelines**Restrictions**

- The Licensee shall not conduct any excavation, digging, drilling, regrading, or other ground-disturbing activities on the proposed licensed area without the prior written approval from the Government. Prior to conducting any excavation activities, the Licensee shall perform a geophysical survey for underground petroleum pipeline and utilities clearance.

Pesticides**Covenants**

- The Licensee shall only use State of Hawaii licensed pest control contractors. In addition, the Licensee shall ensure that all pesticide applicators are State of Hawaii commercial pesticide applicators certified in the appropriate categories for the pest control work to be performed.
- The Licensee shall record all daily pesticide applications on the NAVFAC Pest Management Record or other Navy approved form and shall submit the records monthly to the Navy Real Property Manager and NAVFAC Pacific entomologist.
- The Licensee shall utilize integrated pest management techniques to the utmost extent possible.
- All pesticides applied on the proposed licensed area shall be registered with the EPA and State of Hawaii. The Licensee shall provide a list of pesticides intended for use on the proposed licensed area to the Navy Real Property Manager for review and approval by the NAVFAC Pacific entomologist. This list shall be updated and submitted annually.
- The Licensee shall ensure that the pest control contractor has all necessary permits, licenses, and certifications prior to any work conducted by the Licensee on Navy property. All approved pesticide applications conducted on Navy property shall be done according to the label.

- The Licensee shall ensure that pesticide mixing on site shall comply with the pesticide label, federal laws, and state laws. In addition, pesticide mixing on site shall be conducted to prevent and contain spills. Any hose used for pesticide mixing shall be contractor-provided, in good condition, uncontaminated by pesticides, and outfitted with a reduced pressure backflow assembly for connection to a water source. An air gap shall also be used to prevent water source contamination.
- The Licensee shall properly contain any pesticide spill immediately and promptly clean such spill. The Licensee shall handle any spills in accordance with Federal, State, and local laws and installation requirements and policies. The Navy Real Property Manager shall be immediately notified by the Licensee in case of a spill.

Restrictions

- The Licensee shall not store or dispose of any pesticides, pesticide containers, pesticide waste, or pesticide-contaminated materials on Navy property.

2b. List of Land Use Controls (Notifications, Covenants and Restrictions) required for Real Estate Action:**Waters of Pearl Harbor****Notifications**

- The Licensee is hereby notified that entry into the waters of Pearl Harbor is prohibited for security reasons.
- The Licensee is hereby notified that the Hawaii Department of Health has issued an advisory against the consumption of fish and shellfish from Pearl Harbor and urban streams.

Covenants

- The Licensee shall install and maintain signs along the shoreline of the park in order to discourage entry into the waters of Pearl Harbor for security reasons. The signs shall be installed every 150 feet along the shoreline and read as follows:

RESTRICTED AREA
ENTRY INTO THE WATER AND MUDFLAT AREAS IS PROHIBITED
BEWARE OF HAZARDOUS DEBRIS IN SHORELINE AREAS

- The Licensee shall install and maintain fish and shellfish consumption advisory signs, as shown in Appendix C, on the same sign posts where the "Restricted Area" signs are posted.

Restrictions

- For security reasons, entry into the waters of Pearl Harbor is prohibited.

Asbestos-Containing Material (ACM)

Potential Asbestos-Containing Material (ACM) may be present in the structures on the proposed licensed area, as discussed in Section H. The following notification and covenants apply to the structures on the proposed licensed area where ACM may be present.

Notification

- The Licensee is hereby notified that Asbestos-Containing Material (ACM) may be present in materials such as transite piping, transite sheets, base cove mastic, caulking at doors and windows, flooring tiles, linoleum, ceiling materials and roofing materials in structures within the proposed licensed area.

Covenants

- Prior to use of the structures, the Licensee, at its own expense, is responsible to ensure that the structures are acceptable for use in accordance with all applicable laws, rules, and regulations. The Licensee, at its own expense, shall have received certification from a state-certified ACM management planner or inspector that no ACM hazards are identified at the structures within the proposed licensed area.
- The Licensee shall be responsible for the management of any ACM in accordance with applicable laws and regulations.

- When disturbing potential ACM, the Licensee will use appropriate procedures and equipment to limit occupational, environmental, and occupant exposure. The Licensee will clean up all potential ACM waste generated by the disturbance and remove all waste. All work will be conducted in accordance with applicable Federal, State and local laws, rules, and regulations.
- The Licensee shall submit all construction and modification plans and asbestos work removal plans to the government for review prior to start of construction activities.
- The Licensee shall remove or abate any asbestos prior to conducting any facility or property improvements, renovations, or demolition activities, in accordance with all Federal and State laws and regulations. All maintenance, management, removal, and containment of asbestos and ACM shall be conducted by the Licensee in accordance with all applicable Federal and State laws, regulations, and standards. The Licensee must test any suspect materials that were not previously tested that would be disturbed by the Licensee during any alteration, modification, or renovation action.

Lead Based Paint (LBP)

Lead based paint may be present in the existing structures on the proposed licensed area, as discussed in Section I.

Notification

- The Licensee is hereby notified that lead based paint may be present in the existing structures on the proposed licensed area. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Soil adjacent to the buildings may contain elevated lead concentrations resulting from lead based paint.

Covenants

- The Licensee must test any paint on surfaces not previously tested that would be disturbed during any alteration, modification, or renovation activities. If the paint is identified as lead based paint, the Licensee must abate the hazards associated with the lead based paint in accordance with all applicable Federal, State, and local laws and regulations.
- The Licensee will ensure that all lead based paint (LBP) removed during abatement, modification, or renovation is contained and properly disposed of and does not contaminate the surrounding soil. Lead based paint chips and particles will be managed as hazardous waste, if necessary for compliance with HAR, Title 11, Chapters 260 through 279.
- In the absence of LBP sampling, the Licensee will treat all painted surfaces as having the potential to contain LBP. When disturbing painted surfaces, the Licensee will use appropriate procedures and equipment to limit occupational and occupant exposure. The Licensee will clean all dust and chips generated by the disturbance and remove all waste. All work will be conducted by the Licensee in accordance with applicable Federal, State and local laws, rules, and regulations.
- The Licensee will ensure that abatement of all LBP is conducted prior to renovation or demolition of the building and the associated grounds to eliminate the potential threat to human health posed by the presence of lead dust and to bring the facilities into compliance with EPA requirements.
- The Licensee shall submit a Lead Abatement Plan to the Government for review prior to any abatement, renovation or demolition.

Pesticides

The following notifications, covenants, and restrictions apply to the possible presence of pesticides or herbicides impacted soil on the proposed licensed area as discussed in Section P.

Notification

- The Licensee is hereby notified that pesticide or herbicide impacted soil may be present on the proposed licensed area.

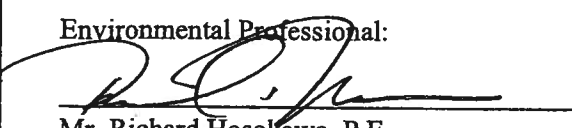
Covenants

The Licensee shall manage pesticide or herbicide impacted soil in accordance with applicable laws, guidance and regulations.

3. Signature:

Based on records reviews, site inspections, and interviews, the environmental professional certifies that the environmental conditions of the proposed licensed area are as stated in this document and the proposed licensed area is suitable for the proposed outgrant.

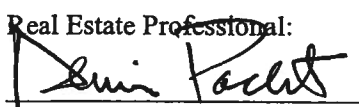
Environmental Professional:


Mr. Richard Hosokawa, P.E.
Installation Restoration Supervisor
Naval Facilities Engineering Command, Pacific

5/23/08
Date

The real estate professional acknowledges the notifications, covenants, and/or use restrictions identified above and will ensure they are made a part of the proposed outgrant document.

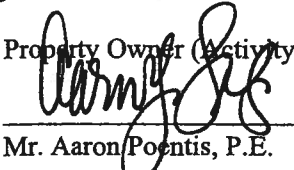
Real Estate Professional:


Mr. Dennis Pacht
Realty Officer
Naval Facilities Engineering Command, Pacific

5/23/08
Date

The Property Owner (Activity or Region) acknowledges and accepts the foregoing statement of environmental conditions and the notifications, covenants, and/or use restrictions that will be required for this proposed real estate outgrant.

Property Owner (Activity or Region):


Mr. Aaron Poentis, P.E.
Director
Regional Environmental Department
Navy Region Hawaii

5/23/08
Date

Appendix A – Location Map

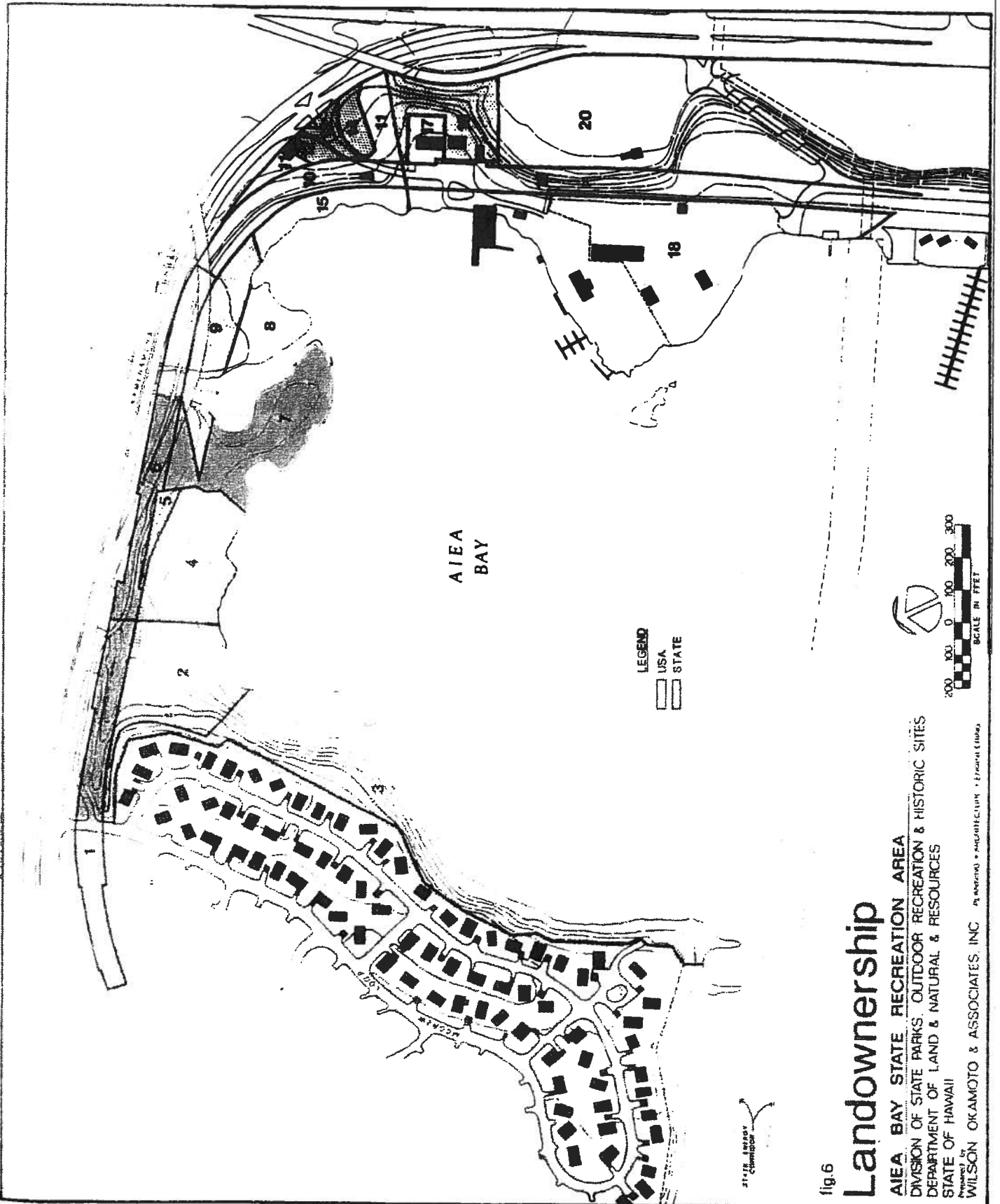


fig. 6

Landownership

AIEA BAY STATE RECREATION AREA
 DIVISION OF STATE PARKS, OUTDOOR RECREATION & HISTORIC SITES
 DEPARTMENT OF LAND & NATURAL RESOURCES
 STATE OF HAWAII
 Prepared by
 WILSON OKAMOTO & ASSOCIATES, INC. AN AMERICAN ARCHITECTURAL FIRM

Appendix B – Site Photographs

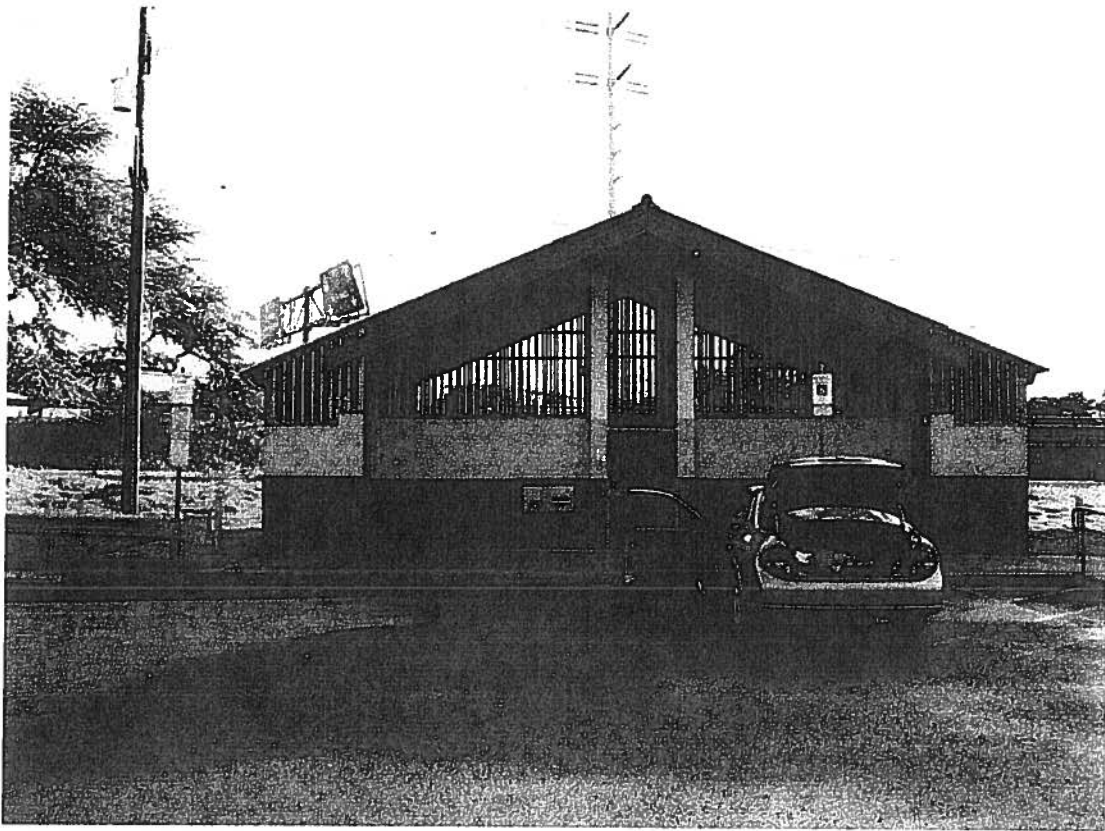


Photo 1: Restroom facility at Aiea Bay State Park (12/20/07)

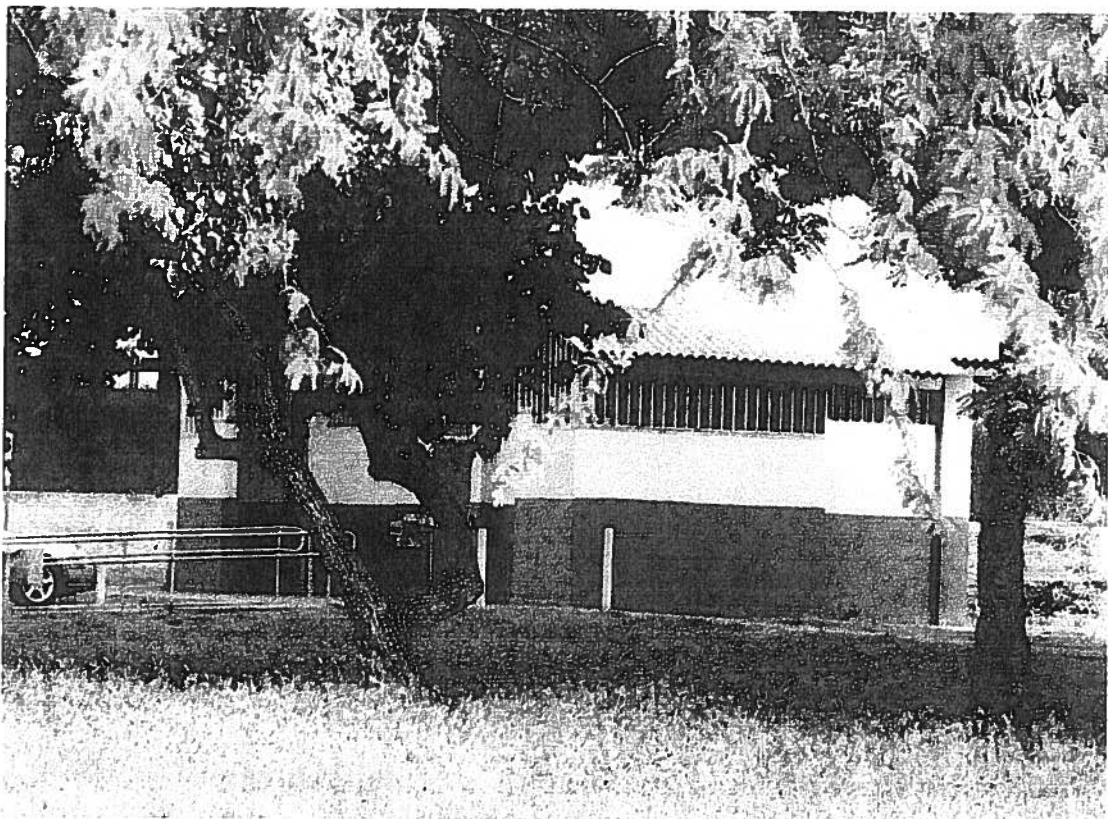


Photo 2: Restroom facility at Aiea Bay State Park (12/20/07)

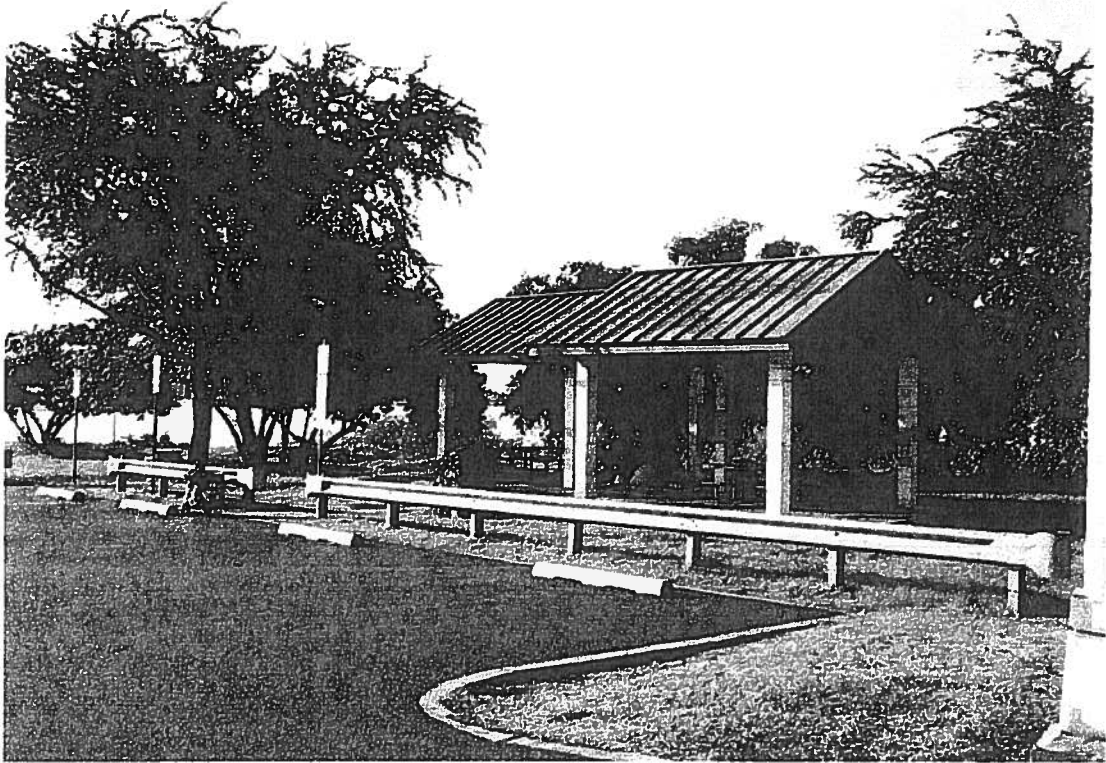


Photo 3: Covered Pavilion at Aiea Bay State Park (12/20/07)



Photo 4: Covered Pavilion at Aiea Bay State Park (12/20/07)



Photo 5: Existing Fish and Shellfish Advisory Sign and Restricted Area at Aiea Bay State Park (12/20/07)



Photo 6: Existing Fish and Shellfish Advisory Sign and Restricted Area at Aiea Bay State Park (12/20/07)

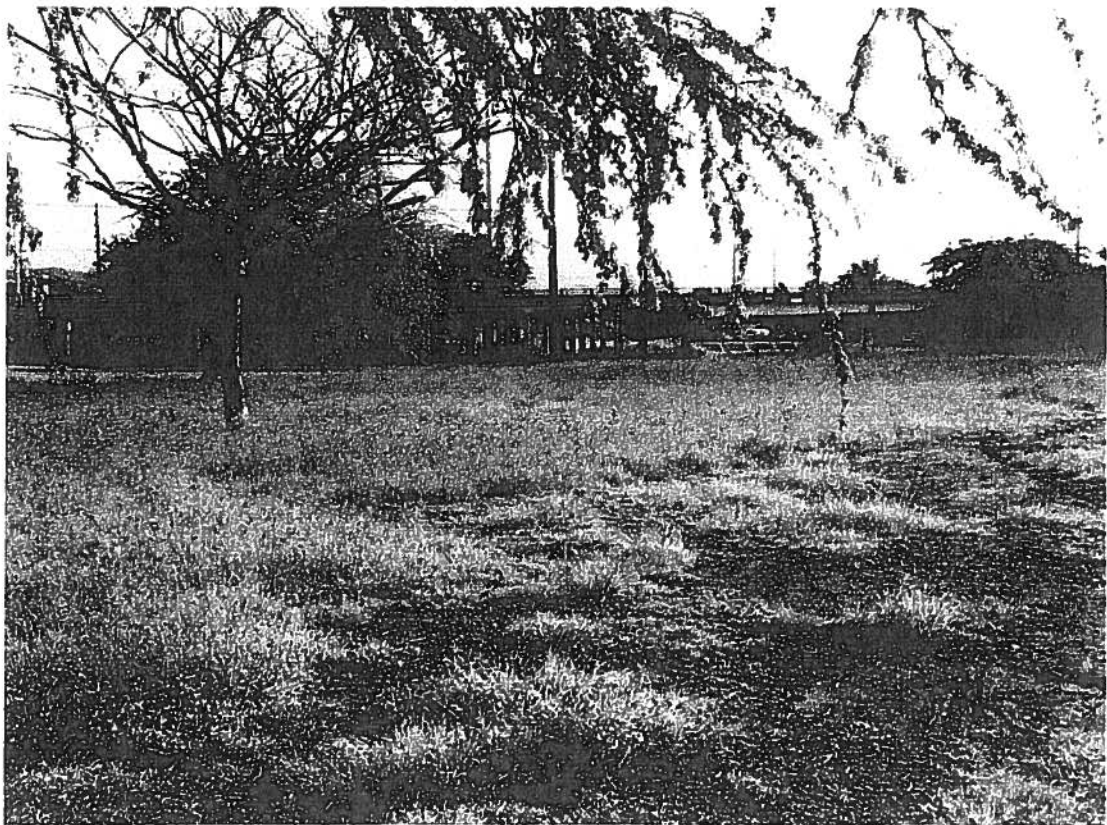


Photo 7: Grassy and muddy area at Aiea Bay State Park (12/20/07)

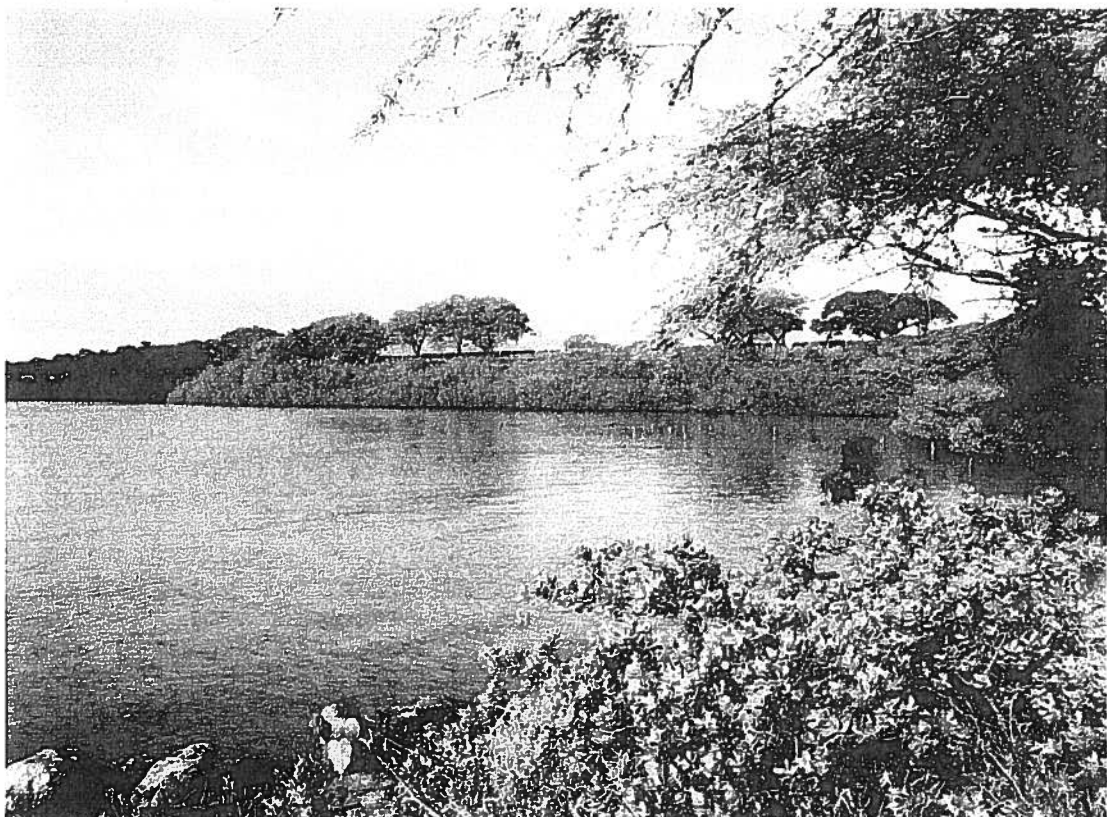


Photo 8: Aiea Bay (12/20/07)

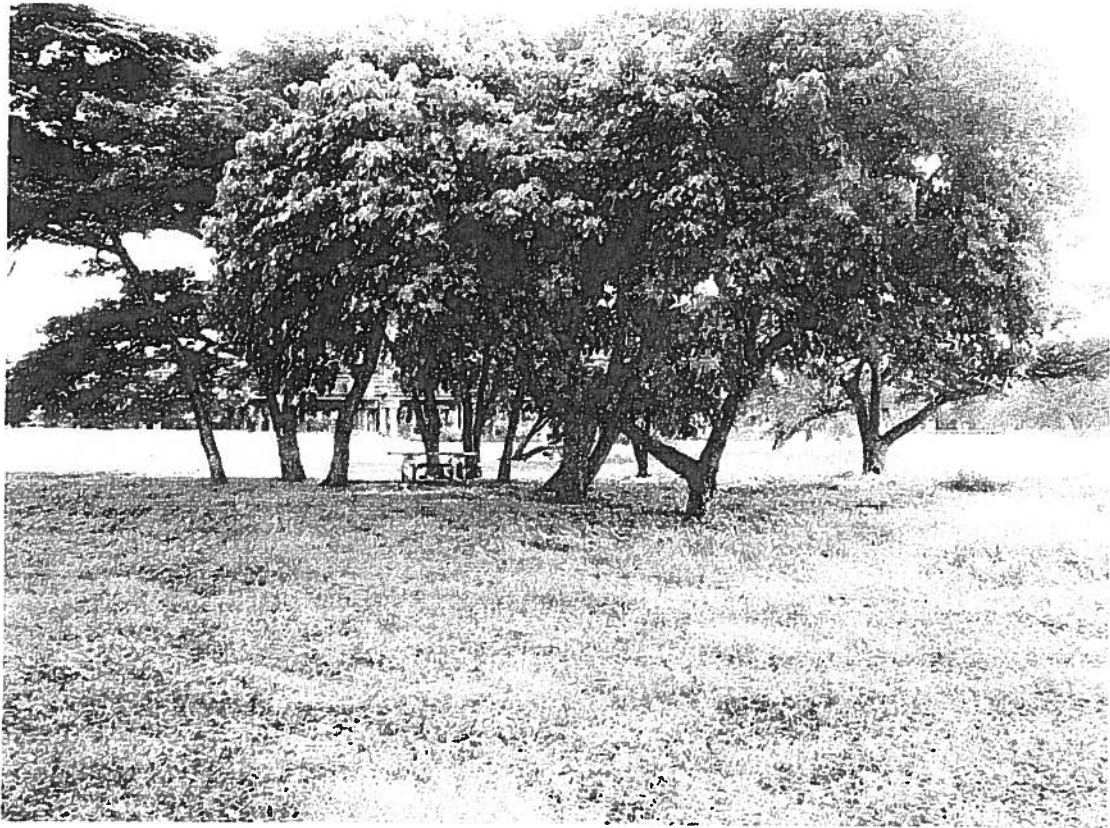


Photo 9: Grassy and muddy area at Aiea Bay State Park
(12/20/07)

Appendix C – Fish and Shellfish Consumption Advisory Sign



Fish and shellfish advisory sign

Appendix D – Record of Categorical Exclusions

DATE: 1/28/08
PROJECT TITLE: Aiea State Park Lease
PROJECT LOCATION: Pearl Harbor, Hawaii
PROJECT PROPONENT: Commander Navy Region Hawaii
PREPARED BY: Brian Yamada
ACTIVITY/BRANCH/CODE: NAVFAC PAC, EV2
TELEPHONE/FAX: (808) 472-1449/(808) 474-5419

This environmental analysis, prepared in accordance with OPNAVINST 5090.1B, CH-4 and in compliance with the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality Regulations 40 Code of Federal Regulations (CFR) Parts 1500-1508 and SECNAVINST 5090.6A provides the basis for foregoing of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) due to the application of one or more Categorical Exclusions (CE).

I. Introduction

A. Action description: Commander, Navy Region Hawaii proposes to issue Hawaii State Parks a real estate license agreement for the use of a parcel of land located off of Kamehameha Highway, neighboring Pearl Harbor (see attached maps). Hawaii State Parks will use the land as part of the Aiea Bay State Park. The Hawaii State Parks Department has been using the Navy land as part of the Aiea Bay State Park since 1993 under the terms of a previous license. The Navy plans to renew the license for 5 years to extend into 2013.

B. Existing environment of Proposed Action: The proposed lease area is located off of Kamehameha Highway, neighboring Pearl Harbor (see attached maps). The proposed lease area is currently used by Hawaii State Parks as a public park. Currently, the park contains a parking lot, covered bathroom, covered pavilions, trees, and open muddy/grassy areas which extend out to the shoreline (see attached photographs). There are signs which notify park users not to enter the water or mudflats.

C. Alternatives considered, including the "No Action" alternative: During normal project planning, general consideration was given to various options and alternatives. However, due to the lack of any serious environmental impacts or controversy and the inherent advantage of the proposed action, only the proposed action was given serious consideration. The No-Action alternative, though considered, was eliminated because it will prevent the Navy from providing land for use in the Aiea Bay State Park.

II. Potential Impact of the Proposed Action on the Environment

A. Proposed action effect on public health or safety:

- (1) Will not be subject to Prevention of Significant Deterioration (PSD)/ New Source Review (NSR) Regulations, National Emission Standards for Hazardous Air Pollutants (NESHAP), or New Source Performance Standards (NSPS).

The proposed action will not cause National/State Ambient Air Quality Standards (NAAQS/SAAQS) to be exceeded.

If a State and/or Title V permit is required, the appropriate permits(s) will be obtained prior to start of construction.

- (2) Will not directly or cumulatively introduce toxic or hazardous chemicals, organic substances or solid wastes into bodies of water, into the air, onto land or into groundwater.
- (3) Will not cause the creation of noise, which would exceed Navy, HUD or OSHA noise criteria established for health and safety of humans or cause a violation of regulations established for protection of wildlife.
- (4) Will not cause traffic hazards or degradation of LOS (level of service) below "D" classification.
- (5) Will not require utility services (water, electricity, sewerage, etc.) beyond the available capacity of existing utility systems.
- (6) Will not generate hazards from explosives or flammable fuels or other hazardous chemicals to affect areas outside of Navy property or other protective zones previously established for safety from these hazards nor impose arcs on occupied buildings.
- (7) Will not generate electromagnetic radiation or electromagnetic interference to affect areas outside of previously established protective zones from these hazards or interference.
- (8) Is not located in an area with a known potential hazard such as in an ESQD arc, EMR zone, airfield clear zone or aircraft accident potential zone.
- (9) Will not cause non-point source (NPS) pollution or degradation of water quality in adjacent stream or body of water and require dewatering operations that need to be issued a National Pollutant Discharge Elimination System (NPDES) general permit.

B. Effects of proposed action on wetlands, threatened or endangered species, historic or archaeological resources, or hazardous waste (HW) sites:

- (1) Is not within a wetland area.
- (2) Will not adversely affect threatened or endangered species of flora or fauna, or any critical habitat or wildlife refuge. Negative determination is based on:
 - (a) X Proposed action does not require consultation with resource agency.
 - (b) _____ Resource agency opinion of "no effect" or "no adverse effect" attached.
- (3) Will not adversely affect the conditions of U.S. Coral reef ecosystems and the marine environment.
- (4) Will not adversely affect historic or archaeological resources currently listed or eligible for listing in the National Register of Historic Places (NRHP) or a National Historical Landmark (NHL). Negative determination is based on:
 - (a) _____ Proposed action is an undertaking (as defined in 36 CFR § 800.16(y)) with a determination of "*no potential to cause effects*" on historic properties. Determination based on the following:
 - (b) _____ Proposed action is an undertaking with potential to involve historic property with a determination of "*no historic properties affected*." SHPO concurrence letter of _____ attached.
 - (c) _____ Formal consultation with the State Historic Preservation Officer (SHPO), with determination of "*no adverse effect*." SHPO concurrence letter of _____

attached (or explain below). Notification letters sent to the following consulting parties:
(please list)

Disagreements and comments received have been resolved, if applicable.

- (d) X Proposed Action does not require further review in accordance with the Aug 2003 CNRH Programmatic Agreement. See attached Memo.
Section: Stipulation IX.A.1
Reviewer: Karen Desilets Date: 12/31/2007

- (5) Proposed action site is not listed in activity Installation Restoration Program (IRP) or eligible for listing.

C. The proposed action does not involve effects on the human environment that are highly uncertain, pose unique or unknown risks, or have effects that are scientifically controversial.

D. The proposed action does not establish precedence or does not make decisions in principle for future actions with significant effects.

E. The proposed action does not threaten a violation of Federal, state, or local laws or requirements established to protect the environment with respect to any of the following. Determination is based on:

- (1) Department of the Army (DA) Permit.

- (a) X Proposed action does not require a COE permit for construction or other work within waters or wetlands of the United States.
- (b) ___ Proposed Action requires a Department of Army (DA) permit in accordance with:
- (1) ___ Section 10 of the Rivers and Harbors Act of 1899,
- (2) ___ Section 404 of the Clean Water Act (A Section 401 Water Quality Certification required from the State of Hawaii, Department of Health, Clean Water Branch).
- (3) ___ Section 103 of the Marine Protection, Research and Sanctuaries Act (MPRSA).

The Proposed Action qualifies as a:

- (4) ___ Nationwide Permit (NWP) No. _____, Title _____
- (5) ___ Regional Permit No. _____, Title _____
- (6) ___ Letter of Permission (LOP) No. _____, Title _____

- (2) Coastal Zone Management Act (CZMA).

- (a) X CNRH has determined that the Proposed Action will have no reasonably foreseeable direct and indirect effects on any coastal use or resources of the State's coastal zone and no further documentation is required.
- (b) ___ Proposed action is consistent with the approved Coastal Zone Management Program for the area. CZM consistency determination letter is attached.

(3) Flood Disaster Protection Act and implementing regulations; Executive Order 11988; Water Resources Council Guidelines on Implementing E.O. 11988.

(a) X Proposed action is located outside of the 100-year floodplain identified by the Flood Insurance Rate Map (FIRM).

Not applicable, proposed action is located in-water.

(b) Proposed action is located within the 100-year floodplain. Compliance documentation or justification of a waiver is attached.

III. Comments

None.

IV. Conclusions

Based on the above environmental analysis, it is concluded that this is a categorically excluded action that will not normally significantly impact the quality of the human environment, and, therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required. The categorical exclusions are as follows (exclusion number and verbatim text from SECNAVINST 5090.6A):

(32) Renewals and/or initial real estate ingrats and outgrants involving existing facilities and land where in use does not change significantly (e.g., leasing of Federally-owned or privately -owned housing or office space, and agricultural outleases).

Reviewed by N45:

Mika Orimoto
M. ORIMOTO

1/31/08
Date

Commanding Officer:
(or Designated Representative)

A.Y. Poentis

A.Y. POENTIS
Director
Regional Environmental Department
By direction of
Commander, Navy Region Hawaii

1/31/08
Date